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SUPREME COURT, U.S.

IN THE SUPREME COURT
OF THE UNITED STATES

NO. 81 5071

JAMES HUGH HENSON, JR. - PETITIONER, PRO SE

v.

WARDEN WALTER W. REDMAN - RESPONDANT

PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
THIRD CIRCUIT

James Hugh Henson, Junior
513867
Delaware Correctional Center
Smyrna, Delaware 19977

Petitioner, pro se

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IN THE SUPREME COURT
OF THE UNITED STATES

NO. _____

JAMES HUGH HENSON, JR. - PETITIONER, PRO SE

v.

WARDEN WALTER W. REDMAN, - RESPONDANT

PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

The Petitioner, James Hugh Henson, Jr., respectfully prays that a writ of certiorari issue to review the judgement and opinion of the United States Court of Appeals for the Third Circuit entered in this proceeding on Febuary 24, 1981.

OPINION BELOW

The Opinion of the Court of Appeals was unpublished. The opinion(s) of the District Court for the District of Delaware, appears in the appendix attached hereto.

JURISDICTION

The judgement for the Court of Appeals for the Third Circuit was entered on Febuary 24, 1981. No petition for a rehearing was entered, and this petition for certiorari was filed within (90) days of that date. This Court's jurisidiction is invoked under 28 USC 1254.

QUESTIONS PRESENTED

1. Was Petitioner lawfully interrogated by Police Officers when Petitoner was not under arrest?

2. Was Petitioner required, through coercive prosecutorial techniques, to make incriminating statements against himself during trial in violation of the 5th Amendment to the United States Constitution?

3. Was Petitioner denied a speedy trial?

4. Did the prosecution harm the truthfulness of the documented evidence by altering the documented evidence prior to presentation to the jury?

5. Was Petitioner denied due process of law?

STATEMENT OF CASE

During the early morning hours of December 16, 1972, Petitioner Henson was interrogated by armed police officers in Petitioner's home and in the pressence of Petitioner's (former) spouse and 22 month old child, regarding (then) uncertain criminal activities. Petitioner was not then under arrest, but was questioned regarding his relationship to an adolescent female nieghbor. After interrogating the Petitioner for some time, one of the police officers left the Petitioners home for a brief time and upon returning, informed the Petitioner that he had been accused of raping the female. After more interrogation,

during which time the Petitioner was visibly emotional, t. e Officers left with a promise to return.

Petitioner Henson was arrested at his home at approximately 09:30 on December 16, 1972 and was taken to the police station in New Castle Delaware, where he was subjected to a second interrogation. Again, Petitioner Henson was visibly upset and crying. The Police obtained what was considered to be an incriminating statement from Petitioner Henson at that time. Petitioner Henson was then incarcerated at the Delaware Correctional Center in default of bail.

Petitioner Henson remained incarcerated from December 16, 1972 thru June 25, 1973 before receiving a preliminary hearing in the New Castle County Family Court. It should be noted that Family Court lacked jurisdiction to entertain proceedings of a felony nature at the time the hearing was conducted. Petitioner Henson remained incarcerated through September 13, 1973 before an indictment was issued by the New Castle County Grand Jury. Petitioner remained incarcerated through December 26, 1973 at which time the New Castle Superior Court ruled that Petitioner's right to a speedy trial had not been violated. Petitioner went to trial on January 29th, 30th and 31st, 1974 and was convicted by a jury of kidnapping, rape and sodomy.

Petitioner's Public Defender attorney(s) submitted a motion for a new trial based solely upon a confrontation issue. The physician which had examined the alledged victim following her allegation of having been raped, was not present at the trial for cross-examination. No other issues were raised. The trial court affirmed the convictions

and Petitioner Henson was sentenced to life in prison on May 24, 1974.

Petitoner's Public Defender Attorney appealed the convictions, again based upon the confrontation issue, to the Delaware Supreme Court. The convictions were affirmed by that Court and the Public Defender withdrew representation.

Petitioner Henson sought habeas corpus relief from the United States District Court for the District of Delaware citing the confrontation issue and also raising the speedy trial issue. The District Court also affirmed the convictions.

Petitioner Henson then obtained his trial records and sought post-conviction relief pursuant to Rule 35 of the Superior Court Criminal Rules for the State of Delaware. The convictions were affirmed and Petitioner then appealed to the Delaware Supreme Court a second time. Again the Delaware Supreme Court affirmed the convictions and Petitioner again sought habeas corpus relief from the District Court for the District of Delaware (see, U.S. ex rel. James H. Henson v. Warden Walter W. Redman, Civil Action No. 79-457; attached hereto). The convictions were affirmed and Petitioner Henson appealed to the United States Third Circuit Court of Appeals (C.A. Misc. No. 81-8003). The United States Court of Appeals refused to grant Petitioner Henson a Certificate of Probably Cause and Petitioner Henson now seek's relief from the United States Supreme Court.

Petitioner Henson wishes to note that the issues presented herein are important to him and believed to posses merit worthy of this Courts adjudication. Petitioner Henson is not an attorney and has not received any type of legal training, nor has Petitioner Henson enjoyed the help or assistance of legal counsel during these postconviction proceedings.

ASSIGNMENTS

1. Petitioner Henson was unlawfully interrogated by police officers at a time when he was not under arrest, and in a manner which did not afford him established Constitutional safeguards.

2. Petitioner Henson was subjected to coercive prosecutorial tactics and required to incriminate himself during the trial, in violation of the 5th Amendment to the United States Constitution.

3. Petitioner was denied a speedy trial when the Magistrate Court in Wilmington caused this case to be forwarded to the New Castle County Family Court where jurisdiction was lacking; when the State of Delaware failed to obtain an indictment until approximately nine (9) months after Petitioner Henson's arrest and confinement.

4. The prosecution with consent of the trial court altered the documented evidence prior to presentation to the jury, thereby damaging the truthfulness of the evidence.

5. Petitioner Henson was denied due process of law through the prosecutorial tactic's which delayed the trial and prejudiced the defense.

REASONS FOR GRANTING THE WRIT

Petitioner Henson was an eighteen year old male at the time he was first interrogated concerning this incident. The Police entered the home of Petitioner Henson, with weapons drawn and exhibiting a hostile attitude towards Henson. Petitioner Henson was observed by

the Police to be visibly upset and emotional to the point of hysteria because of the pressence of the weapons and the obviously hostile attitude exhibited by the Officers. The interrogation was conducted in the immediate pressence of Petitioners spouse and young child. Police Officers later testified that Petitioner was read "his Miranda Rights" by one of the Officers, however, the circumstances of the interrogation, as attested to by these officers at the trial, exemplifed that the Consitutional benefice afforded through Miranda v. Arizona, 86 S.Ct. 1602 (1966) were not afforded Petitioner Henson during the interrogation. Henson was obviously emotional and in a state of anxiety because of the pressence of the various weapons. Henson was observed to be frightened and near hysteria, as attested to by the Officers. Instead of receiving the constitutional benifice of Miranda, Petitioner Henson was subjected to emotional and psychological intimidation in a police dominated interrogation which effectively abnegated Henson's ability to think rationally or coherently.

Petitioner Henson was subjected to a second interrogation in a police dominated atmosphere at the Delaware State Police Station later in the morning of December 16, 1972. Petitioner Henson was taken upstairs and interrogated for several hours concerning the alledged kidnapping, rape and sodomy. The Officers alternately yelled, screamed and attempted to cajole Petitioner Henson into confessing to the crimes. A signed statement was obtained during this interrogation which was later introduced into evidence to incriminate Henson. The Police Officers who conducted this second interrogation also testified that Henson was upset and crying and had indicated that he (Henson) had wanted to stop the interrogation at a point prior to the completion of the statement.

REASONS FOR GRANTING THE WRIT

During cross-examination of Petitioner Henson during the trial, the statement noted above was introduced as evidence for the prosecution. Petitioner Henson informed the Court that the answers reflected on the Statement did not represent Petitioners actual responses which were made during the interrogation. The Prosecutor coerced the Petitioner into admitting to the content of the statement, which is in direct violation of the 5th Amendment to the United States Constitution; i.e., no one shall be made to incriminate himself in a criminal proceeding.

REASONS FOR GRANTING THE WRIT

Petitioner Henson was arrested and incarcerated on December 16, 1972. On December 29, 1972 a preliminary hearing was scheduled in the New Castle County Magistrate Court # 13 located in Wilmington, Delaware. Because the alledged victim failed to appear at the hearing, the matter was referred, at the direction of the Magistrate, to the New Castle County Family Court. Preliminary hearings were scheduled in that Court for January, Febuary, March, April and May of 1973, but was postponed on each ocassion because the alledged victim failed to appear. Finally, on June 25, 1973 approximately six (6) months and nine (9) days after the initial arrest and incarceration, the alledged victim showed for a hearing and offered testimony. No record of this hearing was made, however, the matter was bound over for prosecution in the New Castle County Superior Court. At this point, it should be noted that Petitioner Henson does not claim to have a constitutional right to a preliminary hearing, but does contend that the delay in the Family Court contributed significantly to the failure of the State of Delaware to provide a speedy trial.

Petitioner Henson remained incarcerated throughout this period of time. In March of 1973, Petitioner Henson requested that his Public Defender Attorney submit a motion for a speedy trial. Counsel refused to do this, stating that he was reluctant to approach the court concerning this matter. Petitioner Henson repeated the request on a number of ocassions but to no avail. Finally, in July of 1973, Petitioner Henson contacted the American Civil Liberties Union requesting help in obtaining a speedy trial. The American Civil Liberties Union contacted the Public Defender on August 2, 1973 and on August 10, 1973 Counsel submitted a Motion to Dismiss for Failure to Grant a Speedy Trial.

Petitioner Henson was not indicted until September 13, 1973. Rule 48(b) of the Delaware Superior Court Criminal Rules provides that if no indictment is handed down within two terms of the Grand Jury, the defendant in a criminal proceeding may be released without further obligation to furnish bail. On July 25, 1973 Counsel motioned for a reduction of bail pursuant to Rule 48(b). That Motion was denied. It should be noted that the stated Rule does not provide that a defendant must be released if no indictment is brought within a prescribed period of time, but merely provides a semblence of protection for an accused incarcerated awaiting prosecution.

Petitioner Henson was indicted during the September term of the New Castle County Grand Jury, specifically, on September 13, 1973. On December 28, 1973, the Superior Court ruled that Henson's Constitutional right to a speedy trial had not been violated by the delay in bringing the matter to trial.

The most recent opinion regarding this matter, U.S.A. ex rel. James H. Henson, Jr. v. Warden Walter W. Redman, C.A. No. 79-457 (D.Del., dated December 5, 1980) at pages 3 and 4, states that Henson is "bound by the strategic decissions of his attorney", this is in

reference to Counsel's reluctance to approach the Court "concerning the pre-trial motion for dismissal for failure to grant a speedy trial." Henson was, at that time, an eighteen year old youth doing absolutely everything he could think of to adress the charges, as is evidenced by the intervention of the American Civil Liberties Union at the behest of Petitioner Henson. Counsel's "strategic decissions" seriously harmed the constitutional benifits an accused has to a speedy trial. Prosecutorial delays of administrative negligence merely facilitated the injury. Petitioner Henson was a young man, and he cannot be held responsible or accountable for "counsel's strategic decissions."

A defendant in a criminal proceeding is not required to bring himself to trial. That is the responsibility of the State. Petitioner Henson was incarcerated at the Delaware Correctional Center pending disposition of the charges. The State of Delaware was aware at all times of Henson's location and availability for indictment and trial. The lengthly delay seriously harmed Henson in that as a result of his incarceration, he and his family were subjected to public obloquy and subjected to the psychological/emotional trauma's of incarceration. The delay was caused by the State of Delaware. Henson sought to have the matter resolved. Though this petition for a writ of certiorari is prepared and presented in a pro se fashion and manner, and without the benifit of trained or qualified legal counsel, Petitioner Henson believes this issue is controlled by the following cases: Barker v. Wingo, 407 U.S. 514, 92 S.Ct. 2183, 33 L.Ed.2d 10 (1972); Smith v. Hooey, 393 U.S. 374, 89 S.Ct. 575, 21 L.Ed.2d 607 (1968); Dickey v. Florida, 398 U.S. 30, 90 S.Ct. 1564, 26 L.Ed.2d 26 (1970); Klopfer v. North Carolina, 368 U.S. 213, 87 S.Ct. 988, 18 L.Ed. 2d (1967); and Dillingham v. United States, 96 S.Ct. 303 (1975).

REASONS FOR GRANTING THE WRIT

During the early morning hours of December 16, 1972 the alledged victim was transported to the Delaware Hospital in Wilmington for an examination. At that time, she was examined by a physician and that physician prepared a report entitled "Emergency Services Report." This report was submitted as prosecution evidence. The medical report originally was a two page report. On the first page, prior to introduction, two phrases were removed from the face of the documentation. On the second page, the diagnosis read, "Rape ?" That second page was never introduced as evidence. The question mark is a descriptive symbol which we use to indicate or convey doubt. Petitioner Henson contends this symbol indicates reasonable doubt. Petitioner Henson contends that the jury's inability to observe this evidence in it's entirety served to prejudice the defense. It was an error in the trial to allow that piece of evidence to be altered and picked apart by everyone but Henson.

REASONS FOR GRANTING THE WRIT

Petitioner Henson contends he was denied due process of law. The Honorable Judge Murray M. Schwartz stated, "Whether or not such a theory would be valid within an appropriate factual and legal framework, it has no application to the instant case," id at page 12 (D.Del. dated 9/12/80) Naturally, Henson contends otherwise. When Petitioner Henson was interrogated by the Delaware State Police, when considered in relation to the testimony of the arresting officers concerning Henson's obvious psychological state, any statement obtained during the interrogation violated the protections afforded by the 5th and 14th Amendments to the United States Constitution.

When Petitioner Henson was required to remain incarcerated an excessively lengthly period of time awaiting the convience of State Officials to be brought to trial, he was denied due process of law. This is an appropriate factual and legal framework and the "theory" is applicable to the instant case.

CONCLUSION

Petitioner Henson is not an attorney. He has no training in litigation. He has presented these postconviction proceedings in a pro se manner and believes in good faith the the issues presented herein are worthy of this Court's adjudication.

For the reasons contained herein, The Petitioner, James Hugh Henson, Jr., prays respectfully that a writ of certiorari issue from this Court, and that this Court grant Petitioner Henson appropriate relief, in a manner to be determined by the Court.

James Hugh Henson, Jr.

James Hugh Henson, Junior
513867
Delaware Correctional Center

Petitioner, pro se

Sworn to and subscribed before me this 22 day of May, 1980.

Notary Public

My Commission Expires Feb. 17, 1985

February 6, 1981

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C. A. Misc. Rec. No. 81-8003

UNITED STATES OF AMERICA
ex rel. JAMES HUGH HENSON, JR.,
Appellant

vs.

WARDEN WALTER W. REDMAN

(D. Del. Civ. No. 79-0457)

Present: WEIS and GARTH, Circuit Judges

Submitted by the Clerk is a request for a certificate of probable cause on appellant's behalf pursuant to Rule 22(b), Federal Rules of Appellate Procedure

in the above matter listed for February 23, 1981 or as the Court decides.

Respectfully,

Sally Mroz
Clerk

SM:PDS:clp
enc.

The foregoing Motion ~~is/are~~ for a certificate of probable cause is denied

By the Court,

OFFICE OF THE CLERK

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

21400 UNITED STATES COURTHOUSE

INDEPENDENCE MALL WEST

601 MARKET STREET

PHILADELPHIA 19106

SALLY MRVOS

CLERK

TELEPHONE

215-597-2995

February 23, 1981

Re: United States of America ex rel. James Hugh Henson, Jr., Appellant

vs.

Warden Walter W. Redman

C.A. Misc. Record No. 81-8003

Gentlemen:

Enclosed herewith is conformed copy of order entered by the Court today in the above-entitled case.

Very truly yours,

Sally Mrvos, Clerk

mef:ts
Enclosure
Copies to all parties

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELWARE

UNITED STATES OF AMERICA EX REL. JAMES HUGH HENSON, JR., Petitioner,	)	
v.	)	Civil Action No. 79-457
WARDEN WALTER W. REDMAN, Respondent.	)	

James Hugh Henson, Jr., petitioner pro se.

Francis A. Reardon, Esq., Deputy Attorney General, Department of Justice, Wilmington, Delaware; attorney for respondent.

MEMORANDUM OPINION

Dated: December 5, 1980
Wilmington, Delaware

Murray M. Schwartz

SCHWARTZ, District Judge

James Hugh Henson, Jr., a prisoner of the State of Delaware, has filed a petition for a writ of habeas corpus in which he challenges on ten separate grounds his convictions for kidnapping, rape and sodomy. In its Memorandum Opinion and Order of September 12, 1980, the Court denied Henson's motion for summary judgment and dismissed all claims raised in the petition except Henson's claim that the convictions were obtained in violation of his Sixth Amendment right to a speedy trial. The Court concluded that the 13-month delay between Henson's arrest and trial was sufficiently long to require inquiry into the reasons for the delay, whether Henson had asserted his right to a speedy trial, and whether Henson was prejudiced by the delay. See Barker v. Wingo, 407 U.S. 514, 530 (1972). Henson was specifically directed, pursuant to Rule 7 of the Rules Governing Section 2254 Cases, to submit in affidavit form any evidence tending to discredit the finding of Judge Taylor of the Delaware Superior Court[1] that the delay was at least in part caused by Henson's indictment, guilty plea and sentencing on separate armed robbery charges, as well as any evidence showing that Henson asserted his right to a speedy trial, or that he was prejudiced by the delay.

Henson was arrested on rape, kidnapping and sodomy charges on December 16, 1972. He waived a preliminary hearing and the matter was referred to the Delaware Family Court, where Henson was appointed counsel. The Family Court, on May 16, 1973, reduced Henson's bail and scheduled a preliminary hearing. After a preliminary hearing on June 25, 1973, the Family Court found probable cause for the charges and bound the matter over for further proceedings in Superior Court, and also increased bail. Henson, on August 10, 1973, filed a motion to dismiss the prosecution for denial of his right to a

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(1) See Delaware v. Henson, Crim. No. 73-1341 (Del. Super. Ct. Dec. 28, 1973).

speedy trial. Henson was indicted on September 13, 1973, and arraigned on September 28, 1973. Henson's motion to dismiss was denied on December 28, 1973, and he was finally brought to trial and convicted by a jury in January 1974.

The evidence submitted by Henson, taken as true for the purposes of this decision, does not make out a deprivation of Henson's constitutional right to a speedy trial. Henson concedes that during the 13-month delay he was also before the Delaware courts on robbery charges, and the Court therefore must conclude that this was the cause of at least part of the delay. The Court assumes, however, for the purposes of this motion, that the bulk of the delay is attributable to negligence of the State. Henson has not alleged that the State deliberately sought to delay bringing him to trial.

The next factor to be considered is whether Henson asserted his right to a speedy trial. Henson in his affidavit argues that he strenuously sought to assert his right to a speedy trial. Henson claims to have been very concerned about prompt disposition of the charges, and his affidavit and supporting documents show that he expressed this concern to both his attorney and in a letter to the American Civil Liberties Union. However, Henson does not allege that he brought the speedy trial problem to the attention of the court until August 10, 1973, when he filed a motion to dismiss the prosecution on these grounds. Indeed, in a March 28, 1973, letter to Henson, which Henson has submitted as an appendix to his affidavit, Henson's attorney specifically stated that he was reluctant to raise in court the delay in bringing the indictment because a sufficiently lengthy delay might be cause to dismiss the indictment when finally brought. Henson's attorney referred to this strategy as "a procedural device which may be very useful to the defense," and advised Henson that "the delay may be to your benefit." Thus, Henson has not presented evidence showing that he sought to have the court enforce his right to a speedy trial, but has instead offered evidence tending to

show that, for strategic reasons, he did not assert his constitutional right to a speedy trial. A defendant who chooses not to press for trial in the hope of later exploiting inaction by the prosecution should not be permitted to avoid prosecution on the basis of the pretrial delay. See United States v. Beberfeld, 408 F. Supp. 1119, 1126 (S.D.N.Y. 1976). Although Henson may personally have desired speedy disposition of the charges, he is bound by the strategic decisions of his attorney. See e.g., Estelle v. Williams, 425 U.S. 501, 512-13 (1976); Henry v. Mississippi, 379 U.S. 443, 451 (1965).

The defendant has also made insufficient allegations of prejudice, the fourth Barker v. Wingo factor, to make out a claim of denial of the right to a speedy trial. Henson alleges no facts indicating that the 13-month delay impaired the preparation or presentation of his defense. He does complain that certain potential defense witnesses were not called, but he attributes this not to prejudice caused by delay in bringing him to trial, but rather to derelictions of trial counsel. Henson also alleges, however, that he "was subjected to intense psychological and emotional pressure" during the period he was awaiting indictment and trial, that his incarceration during this period prevented him from seeing his family, and that the pendency of the charges prevented him from being considered for parole on the sentence he was serving on other charges. The Court recognizes that prejudice in speedy trial cases can be in the form not only of impairment of the defendant's ability to prepare and present a defense, but also in the nature of threats to the accused's significant psychological, physical and financial stakes in the prompt disposition of criminal proceedings. See United States v. Dreyer, 533 F.2d 112, 115 (3d Cir. 1976). In this case, however, although Henson was in custody for over a year awaiting trial, all of that time was credited to the two-year sentence imposed on June 15, 1973, in connection with his guilty plea to a lesser offense on the separate armed robbery charges. As Delaware prisoners are eligible for parole after completion

of one-third of a sentence (less good time),[2] there was at most roughly a five-month period in which Henson's parole eligibility was affected by the outstanding charges. The Court concludes that Henson has not alleged the type of extreme anxiety and personal prejudice resulting from inordinate delay in criminal proceedings to make out a prima facie case of violation of his sixth amendment rights under United States v. Dreyer, supra. Even assuming that Henson did suffer significant personal prejudice, Henson's own evidence indicates that the delay is attributable in substantial part to a strategic decision of trial counsel.

In evaluating the merits of Henson's speedy trial claim the Court has considered the affidavit and documents submitted by Henson and it is thereby foreclosed from simply dismissing his petition for failure to state a claim. See Fed.R.Civ.P. 12(b)(6). The question therefore is whether the Court may enter summary judgment against Henson at this time. Respondent has not attempted to convert his motion to dismiss into a motion for summary judgment by submitting any affidavits in support of his position. Earlier in this litigation, however, Henson did file a motion for summary judgment which the Court denied on September 12, 1980, when it dismissed all claims except those relating to the speedy trial issue. At that time, the Court advised Henson to submit evidence in affidavit form or else face a conclusive adverse determination of the speedy trial claim. See Henson v. Redman, No. 79-457 (D. Del. Sept. 12, 1980), at 7. Henson thereafter submitted an affidavit and a number of documents, including the damaging letter to him from his attorney. In light of Henson's own earlier position that there are no material issues of fact to be decided and the Court's admonition to Henson that he submit evidence in support of the alleged deprivation of his right to a speedy trial, the Court concludes that it is appropriate to enter summary judgment against

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(2) See Del. Code Tit. 11, § 4346(a).

Henson on his speedy trial claim. This procedure is simply an application of the rule that the pleading party may convert a motion to dismiss into a motion for summary judgment by opposing the motion with evidentiary material. See, e.g., Basel v. Knebel, 551 F.2d 395, 398 & n.2 (D.C. Cir. 1977) (per curiam); Hanna v. United States Veterans' Administration Hospital, 514 F.2d 1092, 1094 (3d Cir. 1975).

An order will issue entering summary judgment for respondent on Henson's claims relating to the alleged deprivation of his right to a speedy trial.

Sally Mrvos
~~THOMAS F. QUINN~~
CLERK

OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
21400 UNITED STATES COURTHOUSE
INDEPENDENCE MALL WEST
601 MARKET STREET
PHILADELPHIA 19106

TELEPHONE
215-597-2995

April 28, 1981

Mr. James Hugh Henson, II
Delaware Correctional Center
Smyrna, DE 19977

RE: HENSON v. Redman
(D. Del. Civ. No. 79-475)
C. A. Misc. Rec. No. 80-8003

Dear Mr. Henson:

This will akcnowledge receipt of your letter dated April 22, 1981 regarding the status of the above-entitled case.

When the Court denied a certificate of probable cause in your case, by order dated February 23, 1981, it, in effect, denied leave to appeal. See 28 U.S.C. § 2253. The denial of a certificate of probable cause closed your case in this Court, and the record has been returned to the district court.

Very truly yours,

Paul Douglas Sisk (ltr)

Paul Douglas Sisk
Supervising Staff Attorney

PDS:lls

Mr. James Hugh Henson, II
Delaware Correctional Center
Smyrna, Delaware 19977

April 22, 1981

Mr. Micheal D. Brophy
Supervising Staff Attorney
United States Court of Appeals
For the Third Circuit
21400 United States Court House
Independance Mall West
601 Market Street
Philiadelphia, Pennsylvania 19106

RE: Henson v. Redman, (Del. Civ. No. 79-457)
C.A. Misc. Rec. No. 80-8003

Dear Mr. Broppy:

I am writing this letter to request information concerning the above noted action. I received a letter from you dated January 6, 1981 informing me that a motion for a certificate of probable cause would be submitted to the Court in my behalf on or about Febuary 23, 1981.

On Febuary 24, 1981 I received a copy of an order from the Court denying me a certificate of probably cause. Since that time, I have heard absolutely nothing from either the Court or the Respondant concerning this matter, and I am becoming concerned as to the status of this case.

I have been unable to learn whether this matter is still pending before the Court, or if the Court has disposed of the matter in the Order of Febuary 23, 1981.

Please help me to resolve this confusion by informing me of the status of this case. I would be sincerely appreciative of any help you may be able to render me. Thank you very much for your indulgence in this matter.

Very truly yours,

James Hugh Henson, II

cc: File